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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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MICHAEL McINERNEY,

Plaintiff,

v.

EIGHTH JUDICIAL DISTRICT COURT, *et al.*,

Defendants.

Case No. 2:16-cv-00698-MMD-GWF

ORDER ACCEPTING AND ADOPTING
REPORT AND RECOMMENDATION OF
MAGISTRATE JUDGE
GEORGE FOLEY, JR.

Before the Court is Magistrate Judge George Foley, Jr.’s Report and Recommendation (“R&R” or “Recommendation”) (ECF No. 38), recommending dismissal of claims against Defendant Swift Transportation (“Swift”). Plaintiff had until January 3, 2018, to file an objection. (ECF No. 38.) To date, no objections have been filed.

This Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge’s report and recommendation, then the court is required to “make a *de novo* determination of those portions of the [report and recommendation] to which objection is made.” 28 U.S.C. § 636(b)(1). Where a party fails to object, however, the court is not required to conduct “any review at all . . . of any issue that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate judge’s report and recommendation where no objections have been filed. *See United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review

1 employed by the district court when reviewing a report and recommendation to which no
2 objections were made); *see also Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D.
3 Ariz. 2003) (reading the Ninth Circuit's decision in *Reyna-Tapia* as adopting the view that
4 district courts are not required to review "any issue that is not the subject of an objection").
5 Thus, if there is no objection to a magistrate judge's recommendation, then the court may
6 accept the recommendation without review. *See, e.g., Johnstone*, 263 F. Supp. 2d at 1226
7 (accepting, without review, a magistrate judge's recommendation to which no objection
8 was filed).


9 Nevertheless, this Court finds it appropriate to engage in a *de novo* review in order
10 to determine whether to adopt the R&R. The Magistrate Judge recommends dismissing
11 claims asserted under 42 U.S.C. § 1983 against Swift because of the absence of
12 allegations that would support claims under § 1983 against a private transportation such
13 as Swift. (ECF No. 38 at 3.) Upon review of the R&R and filings in this case, the Court
14 agrees with the R&R and will adopt it in full.

15 It is therefore ordered that the Magistrate Judge's Report and Recommendation
16 (ECF No. 38) is accepted and adopted.

17 It is further ordered that Plaintiff's amended complaint (ECF No. 7) is dismissed due
18 to Plaintiff's failure to state a claim against Defendant Swift. Claims against Swift are
19 dismissed with prejudice.

20 It is further ordered that this action will proceed on Plaintiff's FCRA claim only
21 against Defendant Hire Right, as enumerated in his complaint (ECF No. 5).

22 DATED THIS 10th day of January 2018.

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25 MIRANDA M. DU
26 UNITED STATES DISTRICT JUDGE
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